



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,456	05/19/2000	Mario Elam Tremblay	7568M	7765

27752 7590 10/22/2002

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
----------	--------------

1724

DATE MAILED: 10/22/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/574,456

Applicant(s)
Tremblay et al.

Examiner
Ivars Cintins

Art Unit
1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 12, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 1724

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12-23 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The limitations: (1) that the filter includes a housing (claim 12, line 3; and claim 17, line 2); and (2) that a filter core is disposed in the housing (claim 12, line 4; and claim 17, line 3) do not appear to be supported by the disclosure originally filed, and hence constitute **new matter**.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-23 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant

Art Unit: 1724

regards as the invention. The term "information which communicates to a user that the filter may be used to remove nano-sized pathogens from a liquid" (claim 12, last two lines) is vague, and indefinite as to the structural limitation intended. Also, the term "pathogents" (claim 12, last line) appears to be a typographical error which renders this claim further indefinite. Similarly, the term "non-carbonaeous" (claim 12, lines 6-7; and claim 17, lines 4 and 6) is deemed to be a typographical error which renders these claims indefinite. Furthermore, the term "said carbon particles and said non-carbonaeous particles are arranged ..." (claim 17, lines 6-9) is indefinite, since the filter core will not necessarily contain both activated carbon and non-carbonaceous particles (see claim 17, lines 4-5). Claims 13-16 and 18-23 depend from either claim 12 or claim 17, and are therefore themselves indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17 and 20-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wallis et al. (U.S. Patent No.

Art Unit: 1724

3,770,625). The reference discloses a filter comprising a housing (see col. 4, line 21), a filter "core" comprising activated carbon granules (col. 2, line 29) and/or pellets (col. 2, line 30) in the housing, and further teaches that this filter has a virus removal index of 100% (see col. 3, lines 12-13); and this is all that is required by claims 17 and 20-23.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallis et al. The reference discloses the claimed invention with the exception of the recited "information" (claims 12-16) and the bulk density of the filter core (claims 15, 18 and 19). However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the filter of Wallis et al. with the recited "information" (e.g. operating instructions), in order to ensure that the user of this device operates it properly. Also, the exact bulk density of the filter of Wallis et al. is not seen to

Art Unit: 1724

materially affect the overall operation of this reference device, or to produce any new and unexpected result; and is therefore deemed to be an obvious matter of choice in design, insufficient to patentably distinguish claims 15, 18 and 19.

Applicant's arguments filed July 12, 2002 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant argues that the filter of Wallis et al. does not have an interstitial spacing which results in the recited virus removal index. It is pointed out, however, that the carbon particles in the reference filter inherently have some interparticle spacing; and since this reference filter has a VRI of 100% (see col. 3, lines 12-13), which satisfies the recited VRI limitations, this reference filter is deemed to satisfy the recited interparticle spacing limitation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached at (703) 308-1972.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for


Serial Number: 09/574,456

Page 6

Art Unit: 1724

all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
October 20, 2002